



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Halliday, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Zermeno, Williams, Sacks, Caveglia, Bogue
CHAIRPERSON Halliday
Absent: COMMISSIONER Thnay

Staff Members Present: Conneely, Emura, Looney, Patenaude, Pearson

General Public Present: Approximately 9

PUBLIC COMMENT

There were no public comments.

AGENDA

1. **Use Permit No. PL-2001-0362 – Annie Henry for Allan & Henry, Inc. (Applicant) Mack Holding Company (Owner):** Request for Outdoor Storage of Pipe Products and Contractor's Equipment – The Property is Located at 20303 Mack Street
2. **Text Amendment No. 2002-0241 – David Davenport for Extended Stay America (Applicant):** Request to Amend the Definition of Hotel to Allow Extended Lodging Facilities with Kitchenettes in Individual Rooms and to Amend the Definition of Motel and Hotel to Limit the Length of Stay
3. **Zone Change No. 2002-0223 – Matthew Zaheri (Applicant):** Request to Change the Zoning from RH-SD2 (High Density Residential/Mission Corridor Special Design District) to CG-SD2 (General Commercial/Mission Corridor Special Design District) – The Property is Located at 704-748 Berry Avenue

PUBLIC HEARINGS

1. **Use Permit No. PL-2001-0362 – Annie Henry for Allan & Henry, Inc. (Applicant) Mack Holding Company (Owner):** Request for Outdoor Storage of Pipe Products and Contractor's Equipment – The Property is Located at 20303 Mack Street

Associate Planner Emura gave the staff report indicating that the applicant has recently moved to the site. He indicated that the storage would be in the rear of the property, which is presently surrounded by a 6' chain link fence. Staff is requiring that a minimum 6-foot

masonry wall replace the fence so that the storage area would not be visible from the street. Staff is recommending approval subject to the conditions of approval.

Various members asked questions regarding the details of the report and for further information about the neighbors to the property.

The public hearing opened at 7:39 p.m.

Larry Russell, applicant, said they are protesting the masonry wall. He said they had the greenery around the fence trimmed while trimming all of the landscaping at the property. However, if they let the greenery grow back, it will hide the storage area completely from the street. He noted that it was recently drastically cut back. They believe the green would be a better solution than the masonry wall. He indicated that they cleaned up the landscaping since it had been a number of years since this had been done. He commented that since the property is a pretty good size, they might want to subdivide the rear piece. This would be an unnecessary cost if the parcel was subdivided and developed as the masonry wall would be removed.

The public hearing closed at 7:43 p.m.

Commissioner Caveglia **moved**, seconded by Commissioner Zermeño, to approve the staff findings minus Conditions 7 and 8, which would require the masonry wall.

Commissioner Sacks said she agreed with the motion and was impressed with the trees on the property. She noticed the "cherry picker" in the storage area and how large it stood above the fence. She was told it does not belong to the applicant and will be gone shortly.

Commissioner Bogue said he also agreed with the motion. He suggested the Commission might require the landscaping near the fence to be trained up the wall.

Commissioner Sacks then asked that landscaping and fixing the fence be part of the agreement.

Commissioner Williams asked staff why they required the masonry wall.

Principal Planner Patenaude said this is standard and common with outdoor storage areas.

Commissioner Williams commented that he would prefer seeing the ivy rather than the wall. He then expressed concern regarding what items would be stored in this area. He was told that undeveloped the area would be hydroseeded and the open storage dirt area would be with crushed rock to keep the dirt down.

Chairperson Halliday asked whether staff would have recommended masonry wall if the ivy had been thick and green. She then noted that all the Commissioners went to see the property and felt the ivy will be adequate.

Commissioner Bogue said he has supported open storage and masonry walls in prior cases and understands the concept. However, this case is different the sight lines are different.



The motion passed 6:0:1, with Commissioner Thnay absent.

2. Text Amendment No. 2002-0241 – David Davenport for Extended Stay America (Applicant): Request to Amend the Definition of Hotel to Allow Extended Lodging Facilities with Kitchenettes in Individual Rooms and to Amend the Definition of Motel and Hotel to Limit the Length of Stay

Associate Planner Pearson described the applicant's plan to build a new hotel at the site of the Southland cinemas. Staff supports the request for extended lodging facilities. He noted that the definition of "hotel" found in the City's Zoning Ordinance does not allow for kitchens in the guest rooms. He explained that the text amendment is a minor change to the Zoning Ordinance that will enable new hotels with appropriate amenities to locate in the City of Hayward. The amendment does not conflict with adopted policies of the General Plan or other Sections of the Zoning Ordinance. Staff recommended approval of the Text Amendment.

Principal Planner Patenaude said the Municipal Code provides for a period of 30-days as the maximum length of stay. The Code provides for an alternative when there is an agreement in writing between the transient and the hotel.

Commissioner Caveglia asked whether there are presently hotels that have longer-stay residents.

Principal Planner Patenaude indicated that the changes proposed do not change any present circumstances.

Commissioner Zermeno asked how the City would enforce the present Ordinance when someone stays longer than 30-days. He was told that the hotels have to provide a report to the Finance Department for the transiency tax.

Commissioner Williams expressed concerns regarding current motels and hotels and whether this is a trend to allow kitchenettes. He said he could foresee others doing this as well. It seems that this is opening up a situation where it turns out to be like an apartment. Unless there is different information, he said he would be reluctant to support this amendment. He asked what is special about this hotel.

Principal Planner Patenaude explained that the main issue is the extended stay and the cooking facility. The other items help to prevent from turning into permanent residential. A number of items needed to be provided as a hotel. The intent is for the hotel to provide a higher level of amenities.

Commissioner Sacks asked about the exception of getting a request for a longer stay in writing, and how this would differ from a lease.

Principal Planner Patenaude said the written arrangement would include continuation of stay as a transient, and the hotel would continue to pay transiency occupancy tax. If the hotel switches over to permanent residential they are not going to want to pay the tax. He said they would refer to the Municipal Code to avoid any conflicts.

Commissioner Sacks discussed the letter from Mary Blackwell who talked about a microwave as a cooking implement and what would be the difference in defining kitchen facilities.

Associate Planner Pearson explained that kitchen facilities require an electrical permit or a building permit.

Commissioner Sacks noted that neither microwaves nor refrigerators are prohibited in hotels and motels.

The public hearing opened at 8:18 p.m.

Dave Davenport, Extended Stay America, said it was not their intention to ask for a text change regarding the length of stay. He said that in the handful of hotels in California that they operate, their staff is required to check customers out and reregister them after a 30-day stay. He noted that this is clearly a problem with the tax. Their application was specifically to allow kitchenettes. People have changed their eating and health habits. This hotel is for the extended stay traveler. It uses traditional and standard hotel services, and offers both a weekly and a daily rate. With a guest staying longer than 30-days, they are entitled to a credit of the tax they pay. He commented that the conditional use permit governs them as a hotel, which is the same as all of them.

Commissioner Caveglia asked whether they have already purchased the property.

Mr. Davenport responded that they are working with General Growth Properties on the site, and will expect to get working on the use permit application as soon as reasonably possible.

Commissioner Williams asked how the zone change would be applied to others, if this applicant drops out. He was told that this amendment is not site specific but would apply to the whole City.

Chairperson Halliday asked whether the applicant was agreeable to the new language governed by the Municipal Code.

Mr. Davenport responded that he was not exactly sure that he understands what is and is not allowed under this ordinance. He said he thought he understood from Mary Backwell inferred that after 30-days the tax would no longer be applied. He commented that they operate hotels all over California and thought this might be unfair.

Principal Planner Patenaude said this change is not proposing not to do anything regarding the 30-day stay. What it is doing is to allow extended stay hotels to have kitchenettes, and requiring other amenities.

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Mr. Davenport responded that as they look at over 440 hotels around the country, more than 4-7 percent of the guests stay longer than 30-days. He said the question is, are these guests who stay longer entitled to relief from the transient occupancy tax

Robert Canepa, General Growth Properties said he brought this chain to Hayward. This has opened up an opportunity for an extended stay hotel, which brings in the transient tourist. He commented that the cinema at Southland would not work there, so now have a vacant cinema. He added that this group fits in really well at that site and would be great for the City. He then commented on the various projects around the City whose principles have needed this kind of facility for long-term stays. He noted that they want more amenities, they will shop and eat in Hayward.

Sanjay Patel, Best Western Motel, commented that some of the hotels in Hayward already do have kitchenettes as well as guests who stay more than 30-days.

The public hearing closed at 8:26 p.m.

Commissioner Bogue commented that times do change and people need this sort of product. He **moved**, seconded by Commissioner Caveglia to support the staff proposal to recommend to Council the Adoption of the Negative Declaration and approve the text amendment subject to the findings of staff.

Commissioner Sacks said she agreed with the motion. She commented that she had just returned from a 3-week trip. Because of the nature of the trip, each night she was not interested in an extended stay facility. For those who need them, this could make all the difference in the world.

Commissioner Williams commented that the concept seems okay, but since it is not site specific, he still had questions. He said he would like to see other text changes instead of these. He said he would not support the motion. He did not believe enough thought had gone into this change. He suggested more caution. When you do something it applies to all.

Chairperson Halliday said she would support the motion. And commented that she was surprised there were no provisions for kitchenettes. She said this was a good idea. Since it is in her neighborhood she hopes it will work

The motion **passed** by the following vote:

AYES:	COMMISSIONERS Bogue, Sacks, Zermeño,
	Caveglia
	CHAIRPERSON Halliday
NOES:	COMMISSIONER Williams
ABSENT:	Thnay

ABSTAIN: None

3. **Zone Change No. 2002-0223 – Matthew Zaheri (Applicant):** Request to Change the Zoning from RH-SD2 (High Density Residential/Mission Corridor Special Design District) to CG-SD2 (General Commercial/Mission Corridor Special Design District) – The Property is Located at 704-748 Berry Avenue

Associate Planner Pearson described the property. He commented that one of the land use policies of the General Plan adopted by the City Council in March, 2002, was to concentrate new car dealerships within Auto Row, that portion of Mission Boulevard between Highland/Sycamore and Harder Road. This property consists of three parcels fronting on Berry Avenue. Rezoning the property would allow the dealership to use the property as part of the vehicle storage/display area. One piece of property is still occupied as a residence. The owner is not interested in selling at this time.

Chairperson Halliday asked whether, if approved, the residential properties would be non-conforming uses, what would be the restrictions regarding modifying these homes.

Associate Planner Pearson said they must be maintained in their existing condition. If the property were destroyed by more than 50 percent, it could not be replaced.

Chairperson Halliday asked whether the property owners have weighed in on zone change. She noted that the General Plan allows for more continuous commercial uses on Mission Boulevard, but this area is residential. She was told that this property would be merged with property on Mission and be part of the auto row.

Commissioner Sacks asked about the legal non-conforming uses. With the two houses, everything is fine until the owner sells or dies and it is part of the estate, what happens to that property.

Associate Planner Pearson says the status of the property does not change until the use changes.

The public hearing opened at 8:40 p.m.

Eric Douglas, resident on Berry Avenue, stated that this rezoning is incompatible with the neighborhood and the General Plan, since the General Plan indicated that the property along Mission was to be commercial, this property is on Berry, a residential area. He then noted that the rezoning was unnecessary since it is not accessible from Mission. He also stated that the auto use would greatly impact the traffic. He then suggested that if the rezoning were accepted, he and his neighbors would like the site plan reviewed by the Planning Commission and a sidewalk required along Berry as well as a traffic light at Berry and Mission for the auto dealership.

Chairperson Halliday said it is generally the City's policy that if concern expressed by neighbors, it will come to a public hearing.

Mr. Douglas then asked for a public hearing on this, if it approved.

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Principal Planner Patenaude said that because it is an auto dealer, it does not require a use permit so there would be no action for a notice. He did add that a staff review of site-plan would include proper buffering. However, it would not necessarily require a site-plan review by the Planning Commission.

Chairperson Halliday expressed concern and said she would like the Commission to see a site-plan for this project.

Principal Planner Patenaude said staff would take that under advisement.

Matthew Zaheri, the applicant, said the only entrance to the dealership would be from Mission, which is adjacent to the stoplight. There will be no entrances and exits on Berry.

The public hearing closed at 8:48 p.m.

Commissioner Bogue asked about the recommended zoning change, since this property is zoned general commercial and sitting halfway down Berry Avenue.

Associate Planner Pearson indicated that the two parcels would require to be merged .

Commissioner Bogue then wondered whether the Commission could require the joining of the property.

Assistant City Attorney Conneely said you cannot put requirements on the zone change.

Commissioner Caveglia **moved**, seconded by Commissioner Sacks, to approve the staff recommendation to the City Council.

Commissioner Zermeño, said he was thinking this should happen maybe five or six years from now. He did not think it was wise to have two commercial parcels with a residence in between. He said he did not know whether this is the time to do this, or wait until later. He said he was waiting to be convinced.

Commissioner Sacks asked what the current zoning for much of the area was and was told it was general commercial.

Commissioner Bogue commented that the City does not need to wait five years. Since by waiting, they might just be encouraging someone else to build a new home on it. He noted that the concern is not changing the zoning but not gaining a larger parcel. If something were done, the site-plan should be reviewed to make sure that the neighbors concerns are being addressed.

Commissioner Caveglia stated that this is the General Land Use Policy that was established to do this. All the Commission was doing was furthering the established policy.

Commissioner Bogue noted that when we get to this level, we need to know how these would affect each other. Especially when we move to a zone change, we need to make sure that it is appropriate.

Commissioner Zermeno commented that if the Commission and the Council go ahead with the rezoning, there would be a wall around the site.

Principal Planner Patenaude said staff would look at appropriate buffers for the area.

Commissioner Zermeno commented that the whole block is zoned the same way.

Commissioner Williams advised that it would seem appropriate to make the change now. The timing might be appropriate at this point. It would help to protect the residents in the area.

Chairperson Halliday asked, if this change is not made, could the dealership still do what they want to do.

Associate Planner Pearson indicated that without the rezoning, the dealership would be restricted to their lot.

Principal Planner Patenaude said they would need an Administrative Use Permit to be used as a parking lot.

Chairperson Halliday asked whether the City could restrict what they want to do with the property, without the zone change. She said again the Commission obviously wanted to review the site plan for this property. Neighbors have to be notified. It is clearly a residential street and a nice residential street.

The motion passed 6:0:1, with Commissioner Thnay absent.

ADDITIONAL MATTERS

2. Oral Report on Planning and Zoning Matters

Principal Planner Patenaude reported on upcoming meetings for the next two weeks. He noted that June 20 would begin with a workshop on the Tree Preservation Ordinance, at 7:30, then a public hearing will be held on the Housing Element at approximately 8:30. On June 27th will be the tentative map and design guidelines to Blue Rock. The meeting of July 11 will include action on Tree Preservation Ordinance and a site plan review for Oliver West, July 25 will be a typical meeting with general items.

3. Commissioners' Announcements, Referrals

Chairperson Halliday, said she would also be here at City Hall at 5:30 on June 20th for the review of the 880-92 final documents. She also noted that the first Summer Street Fair would be held that night.

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- April 11, 2002 approve
- April 25, 2002 approve

ADJOURNMENT

The meeting was adjourned by Chairperson Halliday at 9:11 p.m.

APPROVED:

Francisco Zermeño, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary